Why isn’t the international association of Wall and Ceiling Contractors stipulated to the National Joint Board for the Settlement of Jurisdictional Disputes?

It’s a question that many contractors have asked.

And the answer is: Because the Impartial Disputes Board’s jurisdictional decisions have tended too much to reflect considerations which do not produce consistent, reasonable rulings.

One wall and ceiling contractor, who is a former iaWCC officer, put it this way: “The decisions coming out of the Disputes Board have been more responsive to such things as past practices, union agreements and even union politics. This eliminates consideration of the criteria which really matter.”

These other criteria include economy and efficiency of operation, contractor’s assignment, area trade practice, materials used, tools of the trade, special skills needed, and other factors.

Narrow Decisions

It is iaWCC’s position that not only is the contractor unnecessarily penalized by the Disputes Board’s narrow basis for decisions but that the interests of the construction user or owner are also largely ignored.

Furthermore, by adhering to the decisions in the so-called “Green Book” for precedents, the Disputes Board minimizes the contributions of technological changes because many of these decisions date back to the early 1900s.

Should the Disputes Board demonstrate a change in the criteria for making decisions, iaWCC officials say, then perhaps the association would consider stipulating. It has been noted that since Fred Driscoll, a former general contractor, has become chairman some of the decisions do reflect greater weight being given to economic matters.

Admittedly, the question of where to take a jurisdictional dispute—to the Impartial Disputes Board or to the National Labor Relations Board—leaves contractors in a quandary.

If the contractor stipulates to the Impartial Disputes Board, he is likely to obtain a relatively swift, inexpensive decision—but one perhaps not based equally on all the issues involved in the case.

And any strike or picketing over a jurisdictional matter, which the NLRB has declared an unfair labor practice, can be halted quickly with a Federal Court injunction.

If, instead, the contractor elects to file with the NLRB he faces probably a long and costly procedure—but can expect a reasonable decision in which all factors have been given fair consideration.

As for strikes or picketing, when the contractor follows the NLRB procedure only the NLRB may obtain the injunction and this takes about one week.

No Guarantee

Also, the NLRB will not accept construction cases if an internal mechanism is available for resolving the dispute, so filing with the NLRB does not automatically guarantee that the contractor’s case will be accepted. The NLRB will first investigate to determine if the parties have established a private settlement procedure.

Despite the fact that the iaWCC chooses to remain out of the Impartial Disputes Board to demonstrate its dissatisfaction with that body’s inconsistent handling of jurisdictional problems, contractors still retain their individual options on whether or not to stipulate.

They may stipulate when signing a contract with a general contractor, architect, or some other contract awarding authority who spells out in the contract form that the Impartial Disputes Board will be the mechanism for resolving disputes.

Or, they can stipulate by becoming signatory to local agreements with the unions from whom they employ personnel. All of the building trades unions are stipulated to the Disputes Board.

One iaWCC contractor had his NLRB filing rejected even though he was not signatory to a local agreement. The NLRB took the position that the contractor, in abiding by all the other terms in the agreement, had in effect therefore stipulated himself the same as if he had signed the agreement.

The iaWCC has withdrawn from the Joint Board on two separate occasions. A decade ago, it withdrew when the Board ruled in favor of a standby Operating Engineer for pumps operated by laborers.

Then, nearly two years ago, the association again pulled out when the Board awarded vertical and horizontal drywall ducts to Sheet Metal workers on the basis that the ducts were air handling installations.